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AT the opening of a new academic year it will not be out of place to call attention to the large number of students in the School, and to the reasons which have led to the increase. The total number is now, for the first time, over two hundred, and of these some thirty have returned for the third-year course. This increase is due, in the first place, to what we must believe is a growing interest in the School and in its methods. We propose in the next number to publish a tabulated statement, which will give in detail the number of students during the past few years, and will show the proportion of those who come hither from other colleges. For the present it is enough to cite the number of third-year men as a proof of the appreciation with which the School is regarded by those who have already had some opportunity to test its methods.

Another reason, however, exists in this particular year for the increase in the number of new students. The Harvard Law School Association, which was started last November, at the time of the anniversary celebration, has had not only the effect of uniting the alumni, but has been the means of drawing the attention of the profession at large, particularly of students, to the Harvard Law School, and it is, perhaps, not too much to say, that the numbers of students can be traced, more or less directly, to the influence of the Association. We are glad to announce that through the kindness of the officers of the Association we shall be able to give information about the meetings, together with such official reports and announcements as may be of interest to the readers of the *Review*.

THE form of Mr. Justice Kay's order in *McManus* v. *Cooke*, 35 Ch. D. 681, furnishes an almost humorous illustration of the reluctance with which a mandatory injunction is granted. He allows a "perpetual injunction to restrain the defendant from permitting his present skylight to remain."

THE course in the history of the early English common law, known as "Points in Legal History," which was given by Prof. Ames for the first time last year, will hereafter be given only in alternate years. This course is, perhaps, as well adapted to the alternate system as any course in the school, as it can be taken with advantage by either second or third year students. It is probable that in a few years a corresponding course will be given by Prof. Ames on the classification of the law.

THE catalogue of the School, which is being prepared by Mr. Arnold, the librarian, is to contain the names of all persons connected with the School from 1817 to 1886, inclusive, a number considerably over five thousand. It will give the full name, the date of entering, the year of leaving, the degrees, if any, conferred by the School, and other interesting particulars. Good progress has been made on the work during the summer, though, on account of the unsatisfactory state of the early records, the work has been necessarily slow and laborious. A special effort will be made to obtain the present addresses of the members, a difficult undertaking, as the School has never had any class organization, and no attempt has ever been made to keep the addresses up to date.

THE last number of the "Law Quarterly" contains a discussion of the validity of determinable fees by Mr. H. W. Challis and Prof. Gray. The latter sums up his position as follows: "In conclusion, let me put a practical question. Suppose that a building had been conveyed by A to B, to hold to him and his heirs so long as it was used as a dwelling-house; and that, all the houses in the neighborhood having been turned into shops, B turned his building into a shop also,—does any one believe that a suit by the Crown to get possession of the land would, as a matter of real life, be successful in the courts of to-day? I should say it could not, because (1) since the statute *Quia Emptores* there can be no possibility of reverter; (2) if there could be, the one which it is here attempted to create is too remote. But what would be the answer of those who deny these propositions?"

THE Law School opens this year with 204 students, classified as follows: Graduates, 2; third-year, 31; second-year, 52; first-year, 80; special, 39. Those entering the School are 113 in number. These newcomers are drawn from different States and countries, as is shown below: Massachusetts, 50; New York, 10; Ohio, 7; New Hampshire, 6; Illinois, 5; California, 4; Maine, 3; Kentucky, 3; Wisconsin, 3; Pennsylvania, 3; Rhode Island, 2; Tennessee, 2; Missouri, 2; New Brunswick, 2; and 1 each from Iowa, Minnesota, Florida, Kansas, Louisiana, Connecticut, Nebraska, West Virginia, Maryland, New Jersey, and London, Eng. Seventy-three have received college degrees, distributed as follows: Harvard, 43; Amherst, 5; Brown, 5; Yale, 4; Oberlin, 2; and Wesleyan, Bowdoin, Tufts, University of California, Kansas Normal, Massachusetts Agricultural, Eureka, Fisk, University of New Brunswick, Beloit, Kentucky University, Baden Gymnasium, Allegheny, and Trinity, 1 each.

A DECISION of special interest to professors and students has recently been given by the House of Lords, in the case of Caird *v.* Sime, 12

Ap. Cas. 326, to the effect that the oral delivery of class-room lectures is not such a publication as to entitle any one to print them without permission of the author. The plaintiff in the case was Professor Caird, of the University of Glasgow, and the defendant a bookseller of that city, who had published certain lectures on moral philosophy, from notes taken by a student in the class-room. There was much difference of opinion on the point. The court of last resort in Scotland, thirteen judges sitting, was almost equally divided, and a vigorous dissenting opinion was delivered in the House of Lords. The action was resisted on the ground that a class of students in a university open to all is a "public audience," and that delivery to them is a dedication to the public or an abandonment of the property which a lecturer has in his unpublished work. The Court denied both propositions, and held that lecturing to students is publication only for the purpose of instruction, and that hearers are admitted under an implied contract or condition not to publish what they hear.

WE have received from Prof. Frederick Pollock, of London, a Moot Court decision involving the question whether a contract is complete on the mailing or on the receipt of the offeree's acceptance of the offerer's proposal. This point is one of great interest to students of the Harvard Law School on account of the forcible manner in which Prof. Langdell sustains, on the theory of offer and counter-offer, the result reached by the Massachusetts courts, that the letter must have been received by the offerer in order to make the promise binding. Prof. Pollock upholds the other view, regarding himself bound by the English law on this point. We quote the following: —

"According to the decision of the majority of the Court of Appeal in *Household Ins. Co.* v. *Grant*,[1] the posting of the defendant's letter was enough as against the plaintiff to convert the plaintiff's offer into a binding promise, although, by an accident beyond the control of either party, the letter failed to reach the plaintiff. This is because the party who makes the offer of a contract by means of the public post to a person at such a distance that the post is the most obvious means of communication, is *prima facie* deemed to desire, or at any rate, authorize the offeree to send an answer by the like means, and, as an incident thereto, is deemed to take upon himself the risks of the mode of communication which he has authorized. . . . It has been suggested, again, that a difference is to be made between an offer which contemplates an act to be done by the other party, and an offer which contemplates a reciprocal promise; that acceptance must be communicated if it consists of a promise, but that where it consists in performing, the consideration for which a promise is offered by the proposer, communication is on general principles unnecessary; and that the true ground of the authorities is to be sought in this distinction.[2] If this test were the correct one, the decisions on contracts to take shares, and therefore *Household Fire Ins. Co.* v. *Grant*, would not apply to a case like the present, in which the contract consists wholly in mutual promises. But we are bound not merely by the letter of adjudged cases, but by their declared and apparent reasons; and the suggestions

[1] 4 Ex. D. 216.
[2] Langdell, Sum. of the Law of Contracts, §§ 6, 14–16.

now mentioned seem to me not only to lack any warrant of authority, but to be inconsistent with the express *ratio decidendi* of the authorities, which, here at any rate, must be received as decisive."

THE Harvard Law School has been peculiarly favored in the men who, from its earliest days to the present time, have filled the positions of professors and lecturers. The oldest professorship is the Royall professorship, which was endowed by Hon. Isaac Royall in 1779. The first incumbent was Hon. Isaac Parker, Chief Justice of Massachusetts, who held the position from 1816 to 1827. His successors have been: John H. Ashmun, 1829–1833; Simon Greenleaf, 1833–1846; Hon. William Kent, son of Chancellor Kent, 1846–1847; Hon. Joel Parker, Chief Justice of New Hampshire, 1847–1867; Hon. Nathaniel Holmes, Associate Justice of Missouri, 1868–1872; James B. Thayer, 1874–1883; John C. Gray, 1883– ——.

When Chief Justice Parker was appointed to the Royall professorship, Hon. Asahel Stearns was selected as a colleague, and was assigned to the University professorship, a position which he held from 1817 to 1829. Subsequent holders of this professorship are Hon. F. H. Allen, 1849–1850; Hon. Emory Washburn, 1855–1862.

In 1829, a date of reorganization in the history of the School, Hon. Nathan Dane gave funds for Dane Hall, and to endow a professorship, to which Hon. Joseph Story was to be appointed. Judge Story was the Dane professor from this date till his death, in 1845. Certain precedence was attached to this professorship, and therefore on Professor Story's death, Professor Greenleaf was advanced to the vacant place. Theophilus Parsons was his successor in 1848. When this professorship again became vacant, in 1870, C. C. Langdell was selected, and later, by the choice of the Faculty, became the Dean, or executive head of the School.

In 1862, funds left by Benj. Bussey became available. The endowment of the University professorship was increased, and it was then called the Bussey professorship. Emory Washburn was the professor till 1876, and on his death, Hon. Chas. S. Bradley, Chief Justice of Rhode Island, was appointed. In 1879 James Barr Ames became the Bussey professor. In 1881 an anonymous gift was made to the School, by means of which a new professorship was endowed. Hon. Oliver Wendell Holmes, Jr., held it until his appointment to the supreme bench of Massachusetts, whereupon James B. Thayer was transferred from the Royall professorship.

In 1883 an assistant professorship was established, and Wm. A. Keener selected to fill it.

Besides these many noted writers and teachers who have been professors, the following have been lecturers or instructors in the School: —

Charles Sumner, J. C. Alvord, Henry Wheaton, Luther S. Cushing, Franklin Dexter, Edward G. Loring, Edward Everett, Richard H. Dana, Jr., Benj. R. Curtis, Benj. F. Thomas, Nicholas St. John Green, John Lathrop, Edmund H. Bennett, Henry Howland, Brooks Adams, G. F. Bigelow, Louis D. Brandeis, Charles M. Barnes, Henry W. Torrey, Jos. B. Warner, William Schofield.

WE have received from Mr. P. Edward Dove of London, the Hon. Secretary of the Selden Society, a learned opinion given by him on a

case submitted on behalf of the Corporation of Nottingham as to "Public Rights in Navigable Rivers": —

"It has been said," says Mr. Dove, "in several recent cases (*Murphy* v. *Ryan*, 2 Ir. R., C. L. 143; *Pearce* v. *Scotcher*, 9 Q. B. D. 162) that there can be no public right of fishing in non-tidal waters. The point has not yet come before any English Court of Appeal; and I have no hesitation in saying that it is not consistent with our earlier law."

To support this view Mr. Dove has made a careful and exhaustive study of the Hundred Rolles and other ancient sources, from which he reaches the following conclusions as to the present state of the law: —

"The right to fish in navigable rivers was originally a royal franchise, and, excepting where granted by the Crown to a private person, was exercisable by the public in virtue of its belonging to the Crown.

"In and prior to the date of Magna Charta, the Crown granted this franchise to private persons in respect of portions of the navigable rivers in England.

"To remedy what was considered to be a great injury to the public, one of the stipulations of Magna Charta was that no further grants of the kind should be made, and that all those granted since Henry the Second should be void.

"This law has never been changed.

"There have, however, been decisions in the Law Courts treating the right to fish in navigable rivers as though it was especially a right of a private nature, and belonged to the riparian owners. These decisions have been taken to be binding by reason of their being decisions of the Courts."

Accordingly he has drawn up a bill, declaratory of the law, in which he has embodied the result of his researches. This bill he hopes to have passed as "The Fishing in English Rivers Act, 1887." A correspondent of the "Law Quarterly," though in favor of the cause which Mr. Dove advocates, criticised several of his propositions as follows: —

"His first proposition is that every river that is in fact navigable for ships or boats is a 'public river' and a highway. This we imagine may be conceded by his adversaries, provided that the term 'public river' be not so used as to beg any question about the right to fish therein. But to show that a public river is a highway is little. A member of the public has a right to walk along the king's highway; he has no right to pluck the grass or pocket the stones. Mr. Dove's next proposition is that 'an exclusive right of fishery is a royal franchise.' But this proposition is too wide, for it would not be contended by any that in England the owner of both banks of a non-navigable river has not an exclusive right of fishing in it, and this without any grant from the Crown. The question then arises whether the line is to be drawn at the point where the modern authorities draw it, namely, where the river ceases to be tidal, or where Mr. Dove wants to draw it, namely, where the river ceases to be navigable."